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Application No. : 2,364,528
Owner : MORINAGA & CO., LTD.
Title : SOFT CANDY AND ITS PRODUCTION METHOD
Classification : A23G-3/00
Your File No. : 10502.77
Examiner : Emman Ben Jamel

YOU ARE HEREBY NOTIFIED OF :

- A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SUBSECTION 30(2) OF THE *PATENT RULES*;
- A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SECTION 29 OF THE *PATENT RULES*.

IN ORDER TO AVOID **MULTIPLE ABANDONMENTS** UNDER PARAGRAPH 73(1)(A) OF THE *PATENT ACT*, A WRITTEN REPLY TO **EACH REQUISITION** MUST BE RECEIVED WITHIN **6 MONTHS** AFTER THE ABOVE DATE.

This application has been examined as originally filed.

The number of claims in this application is 1.

The examiner has identified the following defects in the application:

A search of the prior art has revealed the following:

References Applied:

United States Patents

✓ 5236730	August 17, 1993	Yamada et al.
5462760	October 31, 1995	Serpelloni et al.

Japanese Patents

✓ 63309144	December 16, 1988	Yoshio et al.
✓ 3147743	June 24, 1991	Yasuo et al.

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Yamada et al. disclose a method of producing soft candy. The soft candy is formed from a setting material which includes a boiled down, cooled and solidified jelly syrup. The quality can be prevented from deteriorating by saccharification by use of the jelly and softness and smoothness of the candy to the tongue can be preserved for a long time.

Serpelloni et al. disclose product and process for manufacturing aerated and grainy confectionery. The composition consists of the common ingredients of confectionery: animal/vegetable proteins, fats, emulsifiers, and sugars.

Yoshio et al. disclose a confectionery product and its process. Materials such as fats and oils, emulsifying agents and sugars are used for the confectionery. A moisture content of 6-8% is provided.

Yasuo et al. disclose a soft candy and its production. The soft candy is made by blending an elastic foaming agent with saccharide, fats and oils and water in a specific ratio having a specific gravity of 0.8-1.3.

Claims 1-6 do not comply with Section 28.3 of the *Patent Act*. The subject matter of these claims would have been obvious on the claim date to a person skilled in the art or science to which it pertains having regard to Yamada et al., Serpelloni et al., Yoshio et al., and Yasuo et al. Yamada et al., Serpelloni et al., Yoshio et al., and Yasuo et al. all teach the composition of a soft candy consisting of a saccharide, fat, and emulsifier. Values for chewing ease and teeth adherence are not measured by the prior art but are expected to fall within the mentioned range according to one skilled in the art. Yamada et al. disclose using a frappe containing a foaming protein.

Claim 7 does not comply with Paragraph 28.2(1)(b) of the Patent Act. Yasuo et al. disclosed the claimed subject matter before the claim date.

Claim 8 does not comply with Paragraph 28.2(1)(b) of the Patent Act. Serpelloni et al. disclosed the claimed subject matter before the claim date.

Claim 9 does not comply with Paragraph 28.2(1)(b) of the Patent Act. Yoshio et al. disclosed the claimed subject matter before the claim date.

Claims 10, 14, 15, 17, 20, 22, 23, and 25-28 do not comply with Paragraph 28.2(1)(b) of the Patent Act. Yamada et al. disclosed the claimed subject matter before the claim date.

Claim 11 does not comply with Paragraph 28.2(1)(b) of the Patent Act. Serpelloni et al. disclosed the claimed subject matter before the claim date.

Claim 12 does not comply with Paragraph 28.2(1)(b) of the Patent Act. Yoshio et al. disclosed the claimed subject matter before the claim date.

Claims 13, 16, 18, 19, and 21 do not comply with Section 28.3 of the *Patent Act*. The subject matter of these claims would have been obvious on the claim date to a person skilled in the art or science to which it pertains having regard to Yamada et al. The ratio of sucrose to other saccharides in claim 13 and the sequence of utilizing sucrose in step one and step four of claim 16 are obvious by Yamada et al. as well as to a person skilled in the art of making soft confectionery. The particle size of the foaming protein in claim 18, the gel strength in claim 19, and the weight ratio in claim 21 are not measured in the prior art. However, they are all expected to fall within the values mentioned. Again, it would be obvious to a skilled person in the art of making soft confectionery.

Claim 24 does not comply with Paragraph 28.2(1)(b) of the Patent Act. Yamada et al. and Yasuo et al. disclosed the claimed subject matter before the claim date.

Claim 9 is indefinite and does not comply with Subsection 27(4) of the Patent Act. The term "moisture content" (claims 1-6) has no antecedent.

In view of the foregoing defects, the applicant is requisitioned, under Subsection 30(2) of the Patent Rules, to amend the application in order to comply with the Patent Act and the Patent Rules or to provide arguments as to why the application does comply.

Under Section 34 of the Patent Rules, any amendment made in response to this requisition must be accompanied by a statement explaining the nature thereof, and how it overcomes each of the above objections.

Under Section 29 of the *Patent Rules*, applicant is requisitioned to provide an identification of any prior art cited in respect of the United States and European Patent Office applications describing the same invention on behalf of the applicant, or on behalf of any other person claiming under an inventor named in the present application, and the patent numbers, if granted. Amendment to avoid references cited abroad may expedite the prosecution. In accordance with Subsection 29(3) of the *Patent Rules*, if the particulars are not available to the applicant, the reason why must be stated.

Emman Ben Jamel
Patent Examiner
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